

Meeting Minutes
 Construction Underground Economy Advisory Committee (CUEAC)
 September 9, 2015
 9:00 am – 11:00 am
 Tumwater, WA

Attendees: Debby Abe, Todd Baker, Patrick Connor, Kerry Cox, Don DeMulling, Allison Drake, Mike Foley, Neil Hartman, Jan Himebaugh, James King, Tom Kwieciak, Debbie Loomis, Mark Martinez, Marnie Morris, Martin Norman, Doric Olson, Alan Paja, José Rodriguez, Nicole Ross, Jennifer Schoonmaker, Stephanie Sams, Elizabeth Smith, Dean Simpson, Josh Swanson, Annette Taylor, Allen Thurston

Agenda Item	Discussion
Opening Remarks Introductions	<p>Elizabeth Smith– L&I</p> <ul style="list-style-type: none"> • Welcome <p>Allen Thurston – L&I</p> <ul style="list-style-type: none"> • Safety Topic: Fall driving tips.
Updates on Agency Activities – Department of Labor & Industries	<p>Elizabeth Smith – L&I</p> <ul style="list-style-type: none"> • Surprise sweeps are being conducted, especially in the summer months. Each team does a number of sweeps across the state. • The data we’ve provided shows how many different types of contractors, electricians, etc. were checked, and how many citations were issued. <p>Alan Paja – Pacific Northwest Regional Council of Carpenters</p> <ul style="list-style-type: none"> • What’s the status of criminal prosecutions on prevailing wage and wage theft cases? <p>Elizabeth Smith – L&I</p> <ul style="list-style-type: none"> • It’s our goal to get agency staff trained and pathways developed so that we can do those. One option is to work with the Attorney General’s Office so that their staff can do it. <p>Alan Paja – Pacific Northwest Regional Council of Carpenters</p> <ul style="list-style-type: none"> • It wasn’t in the budget? <p>Elizabeth Smith – L&I</p> <ul style="list-style-type: none"> • No. We put in a budget request for the Special Investigations Unit, which would target significant bad actors. But the package did not get approved. <p>Tom Kwieciak – Business Industry Association of Washington</p> <ul style="list-style-type: none"> • Are you going to try again next year?

Elizabeth Smith – L&I

- It's a different year. Last year was a year to do policy packages. This next year is a supplemental year. We're looking at putting together some packages, but we're keeping in mind the constrictions we're facing. We're putting together a supplemental package, and we haven't come to a final decision yet on what will be in that package.

Josh Swanson – International Union of Operating Engineers, Local 302

- What's your timeline for that?

Doric Olson – L&I

- The policy stuff has already been packaged. The budget packages are due at the end of September, or the beginning of October.

Elizabeth Smith – L&I

- My division isn't submitting policy packages, but we are submitting budget packages.

James King – Washington State Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Association

- Where we get sensitive is when we see our small businesses getting impacted by what's going on with these types of offenders.

Mike Foley – Spokane Building Trades

- Do you have a list of everyone who was checked?

Elizabeth Smith – L&I

- In terms of the contractors we checked, we don't have a list of who we checked. We can usually figure out pretty easily who the infraction was issued to.

James King – Washington State HVCAR

- When you do the sweeps, how much of this is going to known job sites and looking for violations versus looking for jobsites where people didn't even take out permits?

Dean Simpson – L&I

- We let the area supervisors work with local jurisdictions to figure out where to target. The sweeps will look different depending on what type of information is being shared. We don't try to target anybody. We try to target areas. We don't see as much activity now as we used to because businesses are working more during the week and less on the weekends.

Elizabeth Smith – L&I

- We try to really look for those who are working during times that are off the beaten path. Evenings and weekends.

Doric Olson – L&I

- It's off the normal hours.

Dean Simpson – L&I

- Some of the stuff you find on the weekends is different, like underage workers.

Megan Lum – Better Business Bureau

- Are you following people, for example, from the Home Depot parking lot?

Doric Olson – L&I

- Yes. We've actually done some of that.

Dean Simpson – L&I

- We've increased the number of contractors, and we've had a number of people take the plumber test. There's a lot of work out there right now.

José Rodriguez – L&I

- Sundays have not been very productive.

Elizabeth Smith – L&I

- We're finding the activity, addressing it, and taking action against it. Issuing consequences. Goal 4 is a team from all over the agency.

Doric Olson – L&I

- The idea is to bring a more universal look to the team, which is why the agency team is so diversified.

Elizabeth Smith – L&I

- In the Division of Occupational Safety and Health, we've really been focusing on collections. For safety violations, the consequence is that they get a ticket and a fine. We were missing opportunities to collect on fines, and if we don't do a good job collecting the fine, then that means that we aren't effectively issuing the consequence. We want to make sure both that we're streamlining the processes and making them more effective.
- Relating to employer premiums, we've been focusing on two things. We really want to educate those who are out of compliance. For those who are repeat offenders, we want to make sure they're receiving the penalties. We want to focus our time and attention dedicated across the scale.

Doric Olson – L&I

- For those who are offenders for the first time, we really try to treat it as an educational opportunity. Oftentimes, they won't even receive a fine. We try to educate the entity, and give them a chance to correct whatever is causing them to be out of compliance.

James King – Washington State HVCAR

- We've found, on occasion, you have the veteran businesses that start to fall out of compliance. In a larger company, if people go off the track, it's easier to identify. But if you have a small business that's all of a sudden going off the tracks of compliance, ask why.

Doric Olson – L&I

- The intent is not just for new businesses. It's for any business when they first find themselves getting into trouble.

Elizabeth Smith – L&I

- Part of the escalation strategy is making a process for staff on how they use their judgment in a consistent way.
- What we're doing right now is analyzing what firms fall into the triple junction, how much do they owe, how many firms or entities have they spun off into?

Alan Paja – Pacific Northwest Regional Council of Carpenters

- How many entities fall into this "X"?

Doric Olson – L&I

- There are 62. It's us drilling down into the worst of the worst.

Elizabeth Smith – L&I

- What's not on the list is their history of worker injuries, construction infractions, etc.

Kerry Cox – National Federation of Independent Businesses

- Why are those 62 entities still out there?

Doric Olson – L&I

- One of the strong patterns that shows up again and again is they close the company, and then start up another one. They open it up under another person's name. They change it so that they can't be tracked.

Kerry Cox – National Federation of Independent Business

- There are no technology flags?

Doric Olson – L&I

- These people are getting really sophisticated with their practices, so although the system may trigger it, sometimes it isn't always that straightforward.

Elizabeth Smith – L&I

- We're asking a lot of questions to help us try to understand what's going on. How did they get this level of debt? Why didn't we catch them? Is there a point in time when we should have done the revocation and we didn't? How can we be effective at a policy level?

Allen Thurston – L&I

- When we do see these firms, we get them audited. When my team comes across any of this, they get audited as fast as we can find them.

Annette Taylor – L&I

- Part of the work of Goal 4 is to break down the silos within our agency, and work more cohesively in the way that everyone sees us working.

Alan Paja – Pacific Northwest Regional Council of Carpenters

- In my experience with this agency in the field, this is huge for the morale of the field staff. The field staff gets frustrated with the fact that their toolbox limits them to only being able to do so much.

Doric Olson – L&I

- A big chunk of the team is field staff, and we're trying to leverage our knowledge.

Patrick Connor – National Federation of Independent Business

- There's data on the website that cross-references to other businesses. Is there a way to call these out separately, and have a page that calls this out specifically and warns people? Is there a way we can use a little bit of the shame factor to help homeowners avoid these people?

Elizabeth Smith – L&I

- What if we did a list of revocations?

Patrick Connor – National Federation of Independent Business

- Can you plain talk that and put it where the public can see it?

Elizabeth Smith – L&I

- I think that's something we could look at doing.

Megan Lum – Better Business Bureau

- Are you also going after the people who are signing on the dotted line for these businesses?

Doric Olson – L&I

- At the end of the day, they are the legal owner, and they are responsible for it.

Elizabeth Smith – L&I

- There are times that we do. But sometimes we need to sort out if their accomplices or victims.

Tom Kwieciak – Business Industry Association of Washington

- You should find a way to publicize the consequences for those people who are signing for the establishment of these types of businesses, even if they are just trying to help out.

	<p>Annette Taylor – L&I</p> <ul style="list-style-type: none"> • We try to figure out when the person was actively engaged in the falsification. <p>Elizabeth Smith – L&I</p> <ul style="list-style-type: none"> • The Dirty Dozen are the problems that we’re really focused on.
<p>Updates on Agency Activities – Department of Revenue</p>	<p>Nicole Ross – Department of Revenue (DOR)</p> <ul style="list-style-type: none"> • The DOR tries to look at things from a holistic view. • We’re in the process of replacing our legacy systems. We are just finishing up a study on bad actors, and what changes we can make in policy and legislation that will help us in the long run. • Through the business licensing service, you don’t have to prove anything through the application service online. • The other thing we’re working on is legislative implementation regarding Nexus laws. There aren’t going to be a whole lot of these businesses out of state that won’t be able to not pay taxes. We’re working to contact businesses, get them registered, and paying taxes. <p>Patrick Connor – National Federation of Independent Business</p> <ul style="list-style-type: none"> • What’s the agency doing in terms of vendors who come from out of state to do things like trade shows? Is there outreach to the organizations (BIAW, etc.) about what their obligations are in terms of getting information to their vendors? <p>Nicole Ross – Department of Revenue</p> <p>We are working to get that information available. Nexus is an interesting thing. We work very closely with the convention center in Seattle.</p> <p>James King – Washington State HVCAR</p> <ul style="list-style-type: none"> • Are you reaching out internationally? <p>Nicole Ross – Department of Revenue</p> <ul style="list-style-type: none"> • Yes. It is new. It’s effective as of September 1st, but that is one tool. • We asked for funding for a criminal litigation unit, but it wasn’t approved. We have to use our civil actions. <p>Josh Swanson – International Union of Operating Engineers, Local 302</p> <ul style="list-style-type: none"> • When you ask for funding, is it funding for the agency, or for the Attorney General’s Office? <p>Nicole Ross – Department of Revenue</p> <ul style="list-style-type: none"> • It’s a separate allocation that we use within our agency to pay the AG’s.

	<p>Josh Swanson – International Union of Operating Engineers, Local 302</p> <ul style="list-style-type: none"> • What’s the revenue stream you use to pay for it? <p>Nicole Ross – Department of Revenue</p> <ul style="list-style-type: none"> • We’re all General Fund funded. We asked for \$250K. <p>Tom Kwieciak – Business Industry Association of Washington</p> <ul style="list-style-type: none"> • What was L&I’s model? Would it be staff to internally develop the cases? <p>Elizabeth Smith – L&I</p> <ul style="list-style-type: none"> • Part of our funding package would’ve gone to the AG. They take our cases, after our internal staff has gathered the information.
Feedback Workshop	<ol style="list-style-type: none"> 1) Communications/CUEAC Feedback 2) Enforcement 3) Policy 4) Technology
Closing Remarks	<p>Elizabeth Smith – L&I</p> <ul style="list-style-type: none"> • Topics to discuss? • Public comments and questions